

House File 2512 - Enrolled

PAG LIN

HOUSE FILE 2512

AN ACT

RELATING TO THE JURISDICTION OF THE ETHICS AND CAMPAIGN
DISCLOSURE BOARD AND INCLUDING EFFECTIVE DATE AND RETROACTIVE
APPLICABILITY PROVISIONS AND SUBJECTING VIOLATORS TO REMEDIES
AND PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 68B.32, subsection 1, Code 2005, is
amended to read as follows:

1. An Iowa ethics and campaign disclosure board is
established as an independent agency. ~~Effective January 1,~~
~~1994, the~~ The board shall administer this chapter and set
standards for, investigate complaints relating to, and monitor
the ethics of officials, employees, lobbyists, and candidates
for office in the executive branch of state government. The
board shall ~~also~~ administer and set standards for, investigate
complaints relating to, and monitor the campaign finance
practices of candidates for public office. The board shall
administer and establish standards for, investigate complaints
relating to, and monitor the reporting of gifts, bequests, and
grants under section 8.7. The board shall consist of six
members and shall be balanced as to political affiliation as
provided in section 69.16. The members shall be appointed by
the governor, subject to confirmation by the senate.

Sec. 2. Section 68B.32A, subsections 1, 2, 4, 5, and 6,
Code Supplement 2005, are amended to read as follows:

1. Adopt rules pursuant to chapter 17A and conduct
hearings under sections 68B.32B and 68B.32C and chapter 17A,
as necessary to carry out the purposes of this chapter, ~~and~~
~~chapter 68A, and section 8.7.~~

2. Develop, prescribe, furnish, and distribute any forms
necessary for the implementation of the procedures contained
in this chapter, ~~and chapter 68A, and section 8.7~~ for the
filing of reports and statements by persons required to file
the reports and statements under this chapter and chapter 68A.
The board may establish a process to assign signature codes
to a person or committee for purposes of facilitating an
electronic filing procedure. The assignment of signature
codes shall be kept confidential, notwithstanding section
22.2.

4. Receive and file registration and reporting from
lobbyists of the executive branch of state government, client
disclosure from clients of lobbyists of the executive branch
of state government, ~~and~~ personal financial disclosure
information from officials and employees in the executive
branch of state government who are required to file personal
financial disclosure information under this chapter, ~~and gift,~~
~~bequest, and grant disclosure information from an agency~~
~~pursuant to section 8.7.~~ The board, upon its own motion, may
initiate action and conduct a hearing relating to reporting
requirements under this chapter ~~or section 8.7.~~

5. Prepare and publish a manual setting forth examples of
approved uniform systems of accounts and approved methods of
disclosure for use by persons required to file statements and
reports under this chapter, ~~and chapter 68A, and section 8.7.~~
The board shall also prepare and publish other educational
materials, and any other reports or materials deemed
appropriate by the board. The board shall annually provide
all officials and state employees with notification of the
contents of this chapter, ~~and chapter 68A, and section 8.7~~ by
distributing copies of educational materials to each agency of
state government under the board's jurisdiction.

6. Assure that the statements and reports which have been
filed in accordance with this chapter, ~~and chapter 68A, and~~
~~section 8.7~~ are available for public inspection and copying
during the regular office hours of the office in which they
are filed and not later than by the end of the day during
which a report or statement was received. Rules adopted
relating to public inspection and copying of statements and
reports may include a charge for any copying and mailing of

3 4 the reports and statements, shall provide for the mailing of
3 5 copies upon the request of any person and upon prior receipt
3 6 of payment of the costs by the board, and shall prohibit the
3 7 use of the information copied from reports and statements for
3 8 soliciting contributions or for any commercial purpose by any
3 9 person other than statutory political committees.

3 10 Sec. 3. Section 68B.32A, subsection 8, Code Supplement
3 11 2005, is amended to read as follows:

3 12 8. Establish and impose penalties, and recommendations for
3 13 punishment of persons who are subject to penalties of or
3 14 punishment by the board or by other bodies, for the failure to
3 15 comply with the requirements of this chapter, ~~or chapter 68A,~~
3 16 ~~or section 8.7.~~

3 17 Sec. 4. Section 68B.32A, subsection 11, Code Supplement
3 18 2005, is amended to read as follows:

3 19 11. Establish a procedure for requesting and issuing board
3 20 advisory opinions to persons subject to the authority of the
3 21 board under this chapter, ~~or chapter 68A, or section 8.7.~~

3 22 Local officials and local employees may also seek an advisory
3 23 opinion concerning the application of the applicable
3 24 provisions of this chapter. Advice contained in board
3 25 advisory opinions shall, if followed, constitute a defense to
3 26 a complaint alleging a violation of this chapter, chapter 68A,
3 27 ~~section 8.7, or rules of the board that is based on the same~~
3 28 facts and circumstances.

3 29 Sec. 5. Section 68B.32B, subsections 1, 4, 8, and 9, Code
3 30 2005, are amended to read as follows:

3 31 1. Any person may file a complaint alleging that a
3 32 candidate, committee, person holding a state office in the
3 33 executive branch of state government, employee of the
3 34 executive branch of state government, or other person has
3 35 committed a violation of chapter 68A or rules adopted by the
4 1 board. Any person may file a complaint alleging that a person
4 2 holding a state office in the executive branch of state
4 3 government, an employee of the executive branch of state
4 4 government, or a lobbyist or a client of a lobbyist of the
4 5 executive branch of state government has committed a violation
4 6 of this chapter or rules adopted by the board. ~~Any person may~~
4 7 ~~file a complaint alleging that an agency has committed a~~

4 8 ~~violation of section 8.7 or rules adopted by the board.~~ The
4 9 board shall prescribe and provide forms for ~~this purpose~~
4 10 ~~purposes of this subsection.~~ A complaint must include the
4 11 name and address of the complainant, a statement of the facts
4 12 believed to be true that form the basis of the complaint,
4 13 including the sources of information and approximate dates of
4 14 the acts alleged, and a certification by the complainant under
4 15 penalty of perjury that the facts stated to be true are true
4 16 to the best of the complainant's knowledge.

4 17 4. Upon completion of legal review, the chairperson of the
4 18 board shall be advised whether, in the opinion of the legal
4 19 advisor, the complaint states an allegation which is legally
4 20 sufficient. A legally sufficient allegation must allege all
4 21 of the following:

4 22 a. Facts that would establish a violation of a provision
4 23 of this chapter, chapter 68A, section 8.7, or rules adopted by
4 24 the board.

4 25 b. Facts that would establish that the conduct providing
4 26 the basis for the complaint occurred within three years of the
4 27 complaint.

4 28 c. Facts that would establish that the subject of the
4 29 complaint is a party subject to the jurisdiction of the board.

4 30 8. The purpose of an investigation by the board's staff is
4 31 to determine whether there is probable cause to believe that
4 32 there has been a violation of this chapter, chapter 68A,
4 33 section 8.7, or of rules adopted by the board. To facilitate

4 34 the conduct of investigations, the board may issue and seek
4 35 enforcement of subpoenas requiring the attendance and
5 1 testimony of witnesses and subpoenas requiring the production
5 2 of books, papers, records, and other real evidence relating to
5 3 the matter under investigation. Upon the request of the
5 4 board, an appropriate county attorney or the attorney general
5 5 shall assist the staff of the board in its investigation.

5 6 9. If the board determines on the basis of an
5 7 investigation by board staff that there is probable cause to
5 8 believe the existence of facts that would establish a
5 9 violation of this chapter, chapter 68A, section 8.7, or of
5 10 rules adopted by the board, the board may issue a statement of
5 11 charges and notice of a contested case proceeding to the
5 12 complainant and to the person who is the subject of the
5 13 complaint, in the manner provided for the issuance of
5 14 statements of charges under chapter 17A. If the board

5 15 determines on the basis of an investigation by staff that
5 16 there is no probable cause to believe that a violation has
5 17 occurred, the board shall close the investigation, dismiss any
5 18 related complaint, and the subject of the complaint shall be
5 19 notified of the dismissal. If the investigation originated
5 20 from a complaint filed by a person other than the board, the
5 21 person making the complaint shall also be notified of the
5 22 dismissal.

5 23 Sec. 6. Section 68B.32C, subsections 1 and 3, Code 2005,
5 24 are amended to read as follows:

5 25 1. Contested case proceedings initiated as a result of the
5 26 issuance of a statement of charges pursuant to section
5 27 68B.32B, subsection 9, shall be conducted in accordance with
5 28 the requirements of chapter 17A. Clear and convincing
5 29 evidence shall be required to support a finding that a person
5 30 has violated this chapter, section 8.7, or any rules adopted
5 31 by the board pursuant to this chapter. A preponderance of the
5 32 evidence shall be required to support a finding that a person
5 33 has violated chapter 68A or any rules adopted by the board
5 34 pursuant to chapter 68A. The case in support of the statement
5 35 of charges shall be presented at the hearing by one of the
6 1 board's attorneys or staff unless, upon the request of the
6 2 board, the charges are prosecuted by another legal counsel
6 3 designated by the attorney general. A person making a
6 4 complaint under section 68B.32B, subsection 1, is not a party
6 5 to contested case proceedings conducted relating to
6 6 allegations contained in the complaint.

6 7 3. Upon a finding by the board that the party charged has
6 8 violated this chapter, chapter 68A, section 8.7, or rules
6 9 adopted by the board, the board may impose any penalty
6 10 provided for by section 68B.32D. Upon a final decision of the
6 11 board finding that the party charged has not violated this
6 12 chapter or the rules of the board, the complaint shall be
6 13 dismissed and the party charged and the original complainant,
6 14 if any, shall be notified.

6 15 Sec. 7. Section 68B.32D, subsection 1, unnumbered
6 16 paragraph 1, Code 2005, is amended to read as follows:

6 17 The board, after a hearing and upon a finding that a
6 18 violation of this chapter, chapter 68A, section 8.7, or rules
6 19 adopted by the board has occurred, may do one or more of the
6 20 following:

6 21 Sec. 8. Section 68B.32D, subsection 1, paragraphs c, d,
6 22 and h, Code 2005, are amended to read as follows:

6 23 c. Issue an order requiring the violator to file any
6 24 report, statement, or other information as required by this
6 25 chapter, chapter 68A, section 8.7, or rules adopted by the
6 26 board.

6 27 d. Publicly reprimand the violator for violations of this
6 28 chapter, chapter 68A, section 8.7, or rules adopted by the
6 29 board in writing and provide a copy of the reprimand to the
6 30 violator's appointing authority.

6 31 h. Issue an order requiring the violator to pay a civil
6 32 penalty of not more than two thousand dollars for each
6 33 violation of this chapter, chapter 68A, section 8.7, or rules
6 34 adopted by the board.

6 35 Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

7 1 Sections 2 and 4 of this Act, being deemed of immediate
7 2 importance, take effect upon enactment and are retroactively
7 3 applicable to July 1, 2005, and are applicable on and after
7 4 that date.

7 5
7 6

7 7
7 8
7 9
7 10
7 11
7 12

CHRISTOPHER C. RANTS
Speaker of the House

7 13
7 14
7 15

JEFFREY M. LAMBERTI
President of the Senate

7 16 I hereby certify that this bill originated in the House and
7 17 is known as House File 2512, Eighty-first General Assembly.

7 18
7 19
7 20
7 21
7 22

MARGARET THOMSON
Chief Clerk of the House

7 23 Approved _____, 2006

7 24
7 25

7 26 _____
7 27 THOMAS J. VILSACK
7 28 Governor